

REMARKS

In the Final Office Action mailed March 19, 2009, the Specification was objected to as failing to provide a proper antecedent basis for the claimed subject matter. The Examiner suggested that the subject matter recited in the original Claims 6-12, which were filed on August 31, 2004, be added to the Specification, and the Applicant has done so, as the Examiner will note from the substitute Substitute Specification being filed herewith.

As the Examiner will also note, by the foregoing proposed claim amendments to Claims 6 and 8 the objections to these Claims have been addressed, and the objections to those two Claims have now been rendered moot.

In addition, Claims 6-12 were rejected under 35 U.S.C. §112, second paragraph, by reason of the appearance of the phrase "adding refrigeration" therein. As the Examiner will note, the proposed amendments to these Claims have now done away with the phrase "adding refrigeration" in a manner that renders these Claim rejections moot.

Also, Claims 6-10 and 12 were rejected under 35 U.S.C. §103(a) as being unpatentable over Domazakis (WO 02/065860) in view of the combination of Hans Drexel (DE 10065633 A1) and German Document and Machine Translation, Handbook of Meat Product Technology by Ranken, hereinafter "Ranken," and Mally et al. (U.S. 4,716,821). For the reasons that follow, Applicant traverses these grounds for rejecting these Claims.

In the Examiner's "Response to Arguments" section of the Final Office Action (page 11 of the Final Office Action), first paragraph (i), the Applicant's argument that the Domazakis reference does not teach an inclusion of a cured cheese, but to the contrary is using milk protein, a constituent of raw milk...", was not convincing to the Examiner. While Applicant agrees that Domazakis does not state the origin of the milk protein he uses, the Applicant stresses again the

following parameter: Domazakis has used “milk protein” as an extra emulsifying/stabilizing factor, whereas by direct contrast, the feta cheese pieces of the present application constitutes a decidedly de-stabilizing factor. The purpose of using milk protein in Domazakis is therefore diametrically opposed to the addition of feta cheese pieces in the present application. The use of “milk protein” in Domazakis was therefore being used to solve a technological problem, while the use of “feta cheese pieces” in the present application creates a technological problem, which arises because the feta cheese pieces of the present application are not finely comminuted and mixed in the meat phase of the present application to produce an optically homogenous phase therewithin. Instead, feta cheese pieces remain intact and visible in the resulting product, comprising a discontinuous phase of the emulsion that is detached from its surrounding meat matrix.

The present application does not attempt to claim a novel cheese-containing meat product, but instead provides a technological solution that allows the stable incorporation of two de-stabilizing factors: olive oil and feta cheese pieces in coarsely-comminuted minced meat products.

Drexel teaches the addition of milk powder and cheese to meat products. On the other hand, Domazakis teaches that the stable incorporation of olive oil is attributed, amongst other additional factors, to the function of milk and vegetable proteins, starch and polyphosphates. No known prior art, however, deals with the co-presence of olive oil and feta cheese pieces, and the technological constraints implicated with the instability of resulting products containing these two constituents. Moreover, differentiating the present application further from the above prior art, the present invention does not use and thus does not take advantage of the emulsifying properties of milk proteins. Caseins in milk (i.e. major milk proteins) are transformed into solid

lumps, called curds, during cheese making. Therefore, being set into lumps, caseins present in cheese are no longer functional as emulsification agents. Moreover, the present patent application describes incorporation of solid and visible feta cheese pieces in a coarsely comminuted minced meat-based mixture, and the present application does not describe finely comminuted feta cheese mixed within a finely comminuted meat phase that would potentially maximize the emulsifying property of the meat phase and would render easier the incorporation of finely comminuted feta cheese.

The use of plant fibers, is also neither mentioned nor suggested in any of the above prior art (Domazakis or Drexel). Dietary fiber is a term that excludes other materials such as protein. Moreover, according to Wikipedia (viewed on 6/07/09): “Chemically, dietary fiber consists of non-starch polysaccharides such as cellulose and many other plant components such as dextrins, inulin, lignin, waxes, chitins, pectins, beta-glucans and oligosaccharides.”

The use of vegetable proteins, as suggested by Domazakis, is also not used in the present application. A person of ordinary skill aiming at combining Domazakis and Drexel would certainly have been led to use all the ingredients suggested in both references. The milk powder, milk protein powder additives, vegetable proteins and polyphosphates used in Domazakis and Drexel are not employed in the present application.

Stable incorporation of olive oil and feta cheese pieces of the present application is attributed to the stabilizing and entrapping network provided by the combination of meat, water, salt, breadcrumbs and plant fibers, as well as to the selected processing conditions claimed (e.g. temperature conditions and vacuum).

As far as the reference of Mally is concerned, the Examiner should note that the method of incorporating feta cheese pieces in the present application is different to the method described

in Mally, wherein an edible filling material is deposited onto a proteinaceous patty, and another proteinaceous material is deposited thereatop, while the product being formed continues to flow on a generally straight-line conveyor assembly. Thereafter, a knitting station knits the patties together and the filling is encapsulated therewithin. In the claimed methods of the present application for meat products containing olive oil and feta cheese pieces, only the use of an extruder is mentioned, which is by no means even close to the apparatus described in Mally. Please note, however, that it is not within the scope of protection of the present application to claim novelty over filling methods of proteinaceous materials with other edible materials. Instead, the present application deals with solving of technological stability-associated problems arising from the co-presence of olive oil and feta cheese pieces in a coarsely comminuted meat matrix.

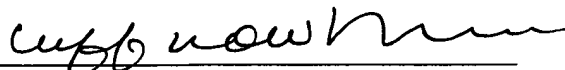
Applicant also acknowledges that Ranken, M.D., the new reference found by the Examiner, teaches steaming to 100°C to cook meat. In this regard, Applicant does not claim novelty in the use of any heat treatment method. Instead, Applicant uses the specific **known** heat treatment technique claimed, instead of other **known** heat treatment techniques, to obtain optimized results leading to the stability of the resulting olive oil and feta cheese pieces product, which is the main goal of this invention.

Applicant has made an attempt to clarify that stability of the stability-challenged combination of olive oil and feta cheese pieces in a coarsely comminuted meat matrix is made possible only due to the claimed method of selective combination of ingredients and the coupling of selective conditions that maximize the stability criterion of the present invention.

Applicant also requests the Examiner to reconsider the rejection of Claims 6-10 and 12 on the ground of a provisional non-statutory obviousness-type double patenting over Claims 7-12

of co-pending Application Serial No. 10/506,411, for the reasons that now the amended claims of the present application contain the specific limitations to "feta cheese pieces in stable combination with olive oil," which patentably differentiates Claims 7-12 of co-pending Application Serial No. 10/506,411 from the amended claims of the present application.

Respectfully submitted,

By: 
Clifford W. Browning
Reg. No. 32,201
Krieg DeVault LLP
One Indiana Square, Suite 2800
Indianapolis, IN 46204
Telephone: (317) 238-6203
Facsimile: (317) 636-1507
E-mail: cbrowning@kdlegal.com

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